IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 2366 of 2005

Akhil Bhartiya Mathadi, Transport
and General Kamgar Union ...Petitioner
vs.
1. Grocery Markets and Shops
Board and ors. ...Respondents

Shri S.S.Pakale for petitioner
Shri S.R.Nargolkar for respondent no.1
Shri R.V.Talsekar for respondent no.2
Shri P.N.Patil for respondent no.3

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.
14th July, 2005

P.C.

1. By this petition the petitioner Union is seeking a direction to respondent no.1 Board to register the establishment of respondent no.2 company with the Board. The petitioner is also seeking a direction to respondent no.1 Board to register the mathadi workers listed at Exh.A to the petition as per Clause 15 of the Grocery Markets or Shops Unprotected Workers (Regulation of Employment and Welfare) Scheme, 1970.

2. It is the case of the petitioner that the workers listed at Exh.A are carrying the job of mathadi nature such as loading, unloading, warai, thapi etc. in the establishment of respondent no.2. It is alleged that by not registering its

establishment with respondent no.1 Board, respondent no.2 has violated the provisions of the Grocery Markets or Shops Unprotected Workers (Regulation of Employment and Welfare) Scheme, 1970 as well as the provisions of Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment & Welfare) Act, 1969.

3. In the reply filed on behalf of the respondent no 2 company, it is contended that the provisions of the aforesaid Act and Scheme are not applicable to the respondent no.2. It is contended that the said Act and the scheme are applicable where loading and unloading of grocery is involved. The 2nd respondent is engaged in the business of manufacturing and mineral water and soft drinks thus it cannot be considered as a grocery item. It is contended that respondent no. 2 has entered into an agreement dated l.l.2005 with the 3rd respondent whereby it is agreed that the 3rd respondent will comply with all the statutory obligations arising out the relevant clauses . It is also contended that the petitioner Union had earlier filed complaint under the provisions of the MRTU and PULP Act, l97l and the same was dismissed as not maintainable.

4. We have heard the learned counsel appearing for the parties. The learned counsel appearing for the respondent no.l Board stated that the Board has issued a show cause notice to respondent no. 2 and the matter is under consideration of respondent no.l Board and appropriate decision will be taken by the Board after granting an opportunity of hearing to the petitioner Union and respondent no.2. As the Board is already ceased of the matter, it is not necessary to entertain the present petition. The Board is directed to decide the show cause notice as expeditiously as possible and preferably within three months. The Board shall also consider the request of the petitioner to enrol the workers listed at Exh A to the petition as Mathadi workers. Till the Board decides the matter the respondent no 2 shall not discontinue any workers now doing the work of loading and unloading in the factory of the respondent no. 2. In case the respondent no. 2 decides to engage a new contractor to carry out the work of loading and unloading the existing workers listed at Exh A to the petition shall be continued with the new contractor till the decision of the Board.

Petition stands disposed of accordingly.